



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

TO: Barry E. Hill, Director, Office of Environmental Justice ("OEJ")
Office of Enforcement and Compliance Assurance ("OECA")

FROM: Theodore J. Kim, Legal Counsel, OEJ/OECA /s/ *Ted Kim*

DATE: December 30, 2005

RE: "Environmental Justice in the News" for the Week Ending December 30, 2005

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This memorandum summarizes select environmental justice news actions for the period beginning November 18, 2005 through the week ending December 30, 2005. The summary is limited to Lexis/Nexis searches conducted using the query: "(environment! w/2 (justice or racism or equity or disproportionate or disparate)) or (environment! w/25 minorit! or low***income) or (executive order 12898) or (civil right! w/25 environmental) or ("fair housing act" w/25 (environment! or zon!))." Please note that multiple articles covering the same topic were not included. Similarly, articles on international or foreign-based environmental justice issues were not included, unless they specifically pertained to the United States.

1. **News Items.**

The following news was particularly noteworthy:

- **Californian (Salinas, CA Dec. 22, 2005) at 1A.** According to the untitled article, the Mayor of Watsonville, California and a candidate for an Assembly seat in California's 28th District, Ana Ventura Phares, visited the San Jerardo Farming community to listen to the residents' concerns about a water system that has not been usable for five years. Contamination from the surrounding agricultural land had rendered the community's well water undrinkable, due to unsafe levels of nitrate. In addition, residents continue to complain of health issues, such as rashes and hair loss, associated with taking showers and other contact with the water. The Environmental Justice Coalition for Water is calling for \$358 million to provide, among other things, emergency water supplies for disadvantaged communities, like San Jerardo. The article concluded by

noting that Ms. Phares pledged her support to help the community and ensure access to clean water, which she deemed a “statewide” issue.

- **“Merck Childhood Asthma Network, Inc.; Pharma Company Foundation Awards \$10 Million in Grants to Five Childhood Asthma Programs,” Physician Law Weekly (Dec. 21, 2005) at 237.** The Merck Childhood Asthma Network, Inc. (“MCAN”) announced that it would fund \$10 million in grants to five innovative childhood asthma programs in Chicago, Los Angeles, New York City, Philadelphia, and San Juan, Puerto Rico. Each program will receive approximately \$2 million over four years and target low-income urban populations with high rates of pediatric asthma. MCAN’s goal is to improve access to quality childhood asthma care and to address disparities in asthma outcomes, particularly among children living in poverty.
- **“Draft Report Released on Airspace Redesign at Area Airports,” Associated Press State and Local Wire (Dec. 21, 2005).** According to the article, the Federal Aviation Administration (“FAA”) issued a draft Environmental Impact Statement (“EIS”) on December 20, 2005 that proposed “possible measures to reduce delays, improve safety and deal with the growing air traffic at airports in the Northeast.” The draft report examined measures to improve the airspace in the New York, New Jersey, and Philadelphia areas to address expected increased future air traffic delays. The draft EIS presented four options for dealing with the issues but failed to provide any recommendations. However, the draft EIS noted that some of the options could significantly impact noise in areas around Newark and LaGuardia airports with high minority populations. The article asserted that the final EIS will discuss how the plans will affect noise and lessen the impact on minority groups.
- **“Mebane Neighborhood Gets Water and Sewer Service,” Chapel Hill Herald (Durham, N.C. Dec. 19, 2005) at 1.** According to the article, water and sewer service was installed in the West End area near Mebane, North Carolina, which represented the culmination of five years of collaboration between the United States Environmental Protection Agency (“EPA”), city officials, and the West End Revitalization Association (“WERA”) to address the area’s water problems. In 2001, WERA, which worked with other underprivileged communities around Mebane to improve access to basic amenities, successfully applied for one of 30 environmental justice grants that EPA offered. Through the grant, WERA, in partnership with EPA, worked with the University of North Carolina School of Public Health to study the effects of failing septic tanks and contaminated wells in communities. WERA’s study eventually concluded that surface and well-water in the area were contaminated by *E. coli* and fecal coliform at an average of 20 to 100 times the EPA’s maximum contaminant limit, which aided WERA’s efforts to install sewer

services. The article concluded by noting that WERA's collaboration with EPA has ensured that local officials, who WERA believed were initially unwilling to help, will continue to actively pursue viable solutions to other existing problems.

- **“Joint Effort to Plug Up Water Woes; Latest Plan Will Tackle Flooding, Quality Issues,” Boston Globe (Dec. 18, 2005) at 1.** According to the article, a new plan has been established to solve the water quality and flooding problems for the area around the Mystic River Watershed, which is a “collection of rivers, streams, lakes, and ponds that drain an area of approximately 76 square miles north of Boston.” The Mystic River Watershed Assessment prepared the new plan, the “Mystic River Watershed Assessment and Action Plan” (“Plan”), in collaboration with, among others, professors from Tufts University and unveiled the Plan on December 9, 2005. The Plan covers a wide range of issues, including environmental justice, and should help repair one of the most densely populated urbanized watersheds in Massachusetts.
- **“EPA to Rule by January 20 on Camco Incinerator,” Courier-Post (Cherry Hill, N.J. Dec. 16, 2005) at 2G.** According to the article, EPA will issue a decision on whether to grant an air pollution permit for the Camden County trash incinerator by January 20, 2005. The incinerator represents a source of contention for advocacy groups like the South Jersey Environmental Justice Alliance, which filed a lawsuit in August that contended that EPA failed to review a blanket permit for the South Camden incinerator. The advocacy groups would like the incinerator to close, because they believe that it represents “one of several pollution-generating sources targeted for South Camden because the neighborhood is mostly black and Hispanic.”
- **“Activists Weigh Litigation as EPA Downplays Risks from Hurricane,” Inside EPA (Dec. 16, 2005).** According to the article, EPA's recent finding that Hurricane Katrina did not create any long-term environmental health threats may be a source of contention in litigation that environmentalists are considering bringing to force additional health warnings and cleanup. On December 9, 2005, EPA and the Louisiana Department of Environmental Quality, as well as other federal agencies, released a comprehensive report that concluded that no long-term health risks remained from the environmental contamination that Hurricane Katrina caused. Environmentalists disagreed with this assessment and sent EPA Administrator Stephen L. Johnson a letter on December 12, 2005, which asserted that EPA failed to perform its obligations under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”) for responding to hazardous releases. Specifically, they argued that EPA failed to use stringent enough standards to determine whether the sediment posed a long-term threat to public health, especially

with regard to arsenic. The letter urged EPA or the Federal Emergency Management Agency (“FEMA”) to initiate a cleanup based on its obligations under the National Response Plan (“NRP”). The article concluded that the environmental groups are considering litigation against EPA over the failure to comply with CERCLA to protect human health and the environment.

- **“Water Unsafe in Small Towns; Activists Worry About State of Drinking Supply in Rural Parts of Valley,” Fresno Bee (Dec. 15, 2005) at A1.** According to a panel speaking at a forum that the Fresno Metro Ministry, an interfaith nonprofit group that provides advocacy on community issues, sponsored, small communities in California, such as Alphaugh and Mendota, are too small to get quick fixes for contaminated water systems. Accordingly, these small communities, which are primarily poor and minority, face daily water contamination and lack access to safe drinking water. For example, in Parlier, a large Hispanic city of almost 13,000 people, the residents were told to boil their water due to contamination. The panelists agreed that these small communities do not get enough attention and argued that healthy drinking water “should be guaranteed.”
- **“Board of Health Rejects Landfill for the Fifth Time,” Cincinnati Enquirer (Dec. 15, 2005) at 4C.** According to the article, the Cincinnati Board of Health (“Board”) denied a permit that would place a waste transfer station in Winton Place, Ohio. The Board’s decision represented the fifth time since 2001 that it voted to deny the permit to Waste Management of Ohio; however, the permit was granted each prior time on appeal to the State. The article noted that environmentalists are optimistic this time that the permit will not be issued, because the Cincinnati City Council is considering an environmental justice ordinance that would require the City to take health risks into account prior to issuing building or zoning permits for a pollution-generating facility. The environmentalists believe that this ordinance may provide the City with the means to block landfills and other hazards. However, the interim Health Commissioner noted that “state law doesn’t allow social justice concerns as a legitimate reason to block a landfill or waste transfer facility.”
- **“Researchers Doubt Clean-Soil Findings: Buried Lead Surfaces, Toxicologist Reports,” New Orleans Times Picayune (Dec. 15, 2005).** According to a peer-reviewed Texas Tech study of soil samples taken in mid-September, children in New Orleans may face an increased risk of lead poisoning after Hurricane Katrina. Accordingly, the study questioned claims by federal and state agencies that the City is safe for residents and workers. However, Maureen Lichtveld, the chairperson of environmental health sciences at Tulane’s School of Public Health and Tropical

Medicine, questioned the Texas Tech study in asserting that the study's data were outdated and relatively sparse compared to the number of samples that EPA took between September and November. The article concluded by noting that EPA still stands behind its assessment that the "majority of samples [indicate that no] long-term health concerns" exist.

- “AP Exclusive: Blacks, Poor More Likely to Breathe Most Unhealthy Air,” Associated Press (Dec. 14, 2005); see also “Not All Air Is Equal; Blacks Most Likely to Endure Pollution,” Biloxi Sun Herald (Miss. Dec. 14, 2005) at 1; “Minority, Poor Hoosiers Clustered Near Air Pollution,” Journal Gazette (Ind. Dec. 14, 2005) at A3; “Area Air Among Nation’s Worst,” Green Bay Press-Gazette (Wis. Dec. 14, 2005) at 1A; “Data Say Monroe Has State’s Unhealthiest Air,” Rochester Democrat and Chronicle (N.Y. Dec. 14, 2005) at 1A; “More Blacks Live in Polluted Areas; They’re Much More Likely than Whites to Suffer Ill Health from Industrial Pollution,” Saint Paul Pioneer Press (Minn. Dec. 14, 2005) at 1B; “76 Tenn. Neighborhoods Among Most At-Risk from Air Pollution,” Associated Press (Dec. 13, 2005); and “North Portland Residents Face High Levels of Pollution,” Associated Press (Dec. 13, 2005).** The group of articles cited above discussed the findings of the Associated Press (“AP”) that indicated that years after President Clinton issued Executive Order 12898, “black and poor Americans still are far more likely to breathe factory pollution that poses the greatest health risk.” Specifically, the AP analysis of government pollution, health, and census data revealed that blacks are 79 percent more likely than whites to live in areas where industrial pollution is suspected of causing the most health problems. The first article quoted former EPA Administrator Carol Browner, who stated “[p]oor communities, frequently communities of color but not exclusively, suffer disproportionately.” According to this article, the AP based its analysis on data from “a little-known [EPA] project that assigns risk scores for industrial air pollution in every square kilometer of the United States. With help from government scientists, AP mapped the risk scores for every neighborhood counted by the Census Bureau in 2000. The scores were then used to compare risks between neighborhoods and to study the racial and economic status of those who breathe America’s most unhealthy air.” The article then noted that in 19 states, the AP determined that blacks were more than twice as likely as whites to live in neighborhoods where air pollution seemed to pose the greatest health danger. In addition, the AP found that in 12 states, Hispanics were more than twice as likely as non-Hispanics to live in neighborhoods with the highest risk scores. In seven states, Asians were more than twice as likely as whites to live in the most polluted areas. Finally, the AP discovered that the average income in the highest risk neighborhoods was \$18,806, which was more than \$3,000 less than the national average. Moreover, one of every six people in the high-risk areas lived in poverty, compared with one of eight elsewhere.

This article also quoted EPA Deputy Administrator Marcus Peacock, who asserted that EPA's mission was to protect everyone, not specific racial or income groups, from pollution. In addition, Deputy Administrator Peacock noted that industrial air pollution has declined significantly over the past 30 years, as regulations and technology has improved. This article concluded by discussing charges that EPA's policy exhibited racism and cited recently issued reports in support; however, the article also noted Granta Nakayama's, EPA's Assistant Administrator for the Office of Enforcement and Compliance and Assurance, defense of the Agency's policies in asserting that EPA chose "its enforcement initiatives to maximize the impact on minority and poor communities." The other articles discussed state or region specific examples of the AP findings, which included:

—An article from Indiana that discussed the fact that Indianapolis, Indiana ranked fourth in the Nation for health risks from exposure to air pollution. In addition, the article discussed how the State's black and Hispanic residents are one and a half times more likely than whites to live in communities where air pollution leads to serious health problems. The article noted that in Henry County, 85 percent of blacks and 88 percent of Hispanics live in the areas with the highest health risks. Henry County, which is 30 mile east of Indianapolis, ranks sixth in the Nation for potential health risks.

—An article from Wisconsin that discussed the fact that the State ranks seventh among the States in total health risk from industrial air pollution. The article noted that Green Bay's West and Preble high schools were in neighborhoods that rank among the worst 5 percent in the Nation for industrial air pollution. The article attributed some of the problems to smog and vehicle pollution.

—An article from New York that discussed the air pollution problems in Rochester. Specifically, the article noted the high health risk around Kodak Park, where Eastman Kodak's industrial facility is located. The article stated that despite the fact that pollution from Kodak Park has declined significantly recently, local environmentalists still suspect that a link exists between Kodak emissions and illnesses to the residents in the nearby neighborhoods.

—An article from Tennessee that discussed the fact that the State has 76 neighborhoods, in areas like Knoxville, Memphis, and Nashville, that rank among the most at-risk from industrial air pollution. According to the article, these 76 sites are among the top 5 percent in Nation in the toxicity of industrial air pollutants that the residents breathe. In addition, the article noted that in Tennessee, blacks were twice as likely as whites to live in neighborhoods where air pollution seemed to pose the greatest health dangers. Blacks make up 26.9 percent of the residents in the State's most polluted neighborhoods, but just 16.3 percent of the population statewide. In contrast, whites account for 79.2 percent of the population statewide and 68.4 percent of the population in the most polluted areas. In

response, the Tennessee Department of Environment and Conservation's ("TDEC") air pollution control division has created a new position that is "dedicated to addressing 'environmental justice' or 'environmental racism' issues." TDEC is still defining the roles and responsibilities of the position, which TDEC hopes to fill in early 2006.

—An article from Oregon that discusses the "'crescent of pollution'" that surrounds Portland, which is where most of the State's black populations live. North Portland, which is an industrialized area, represents the source of the majority of air pollution; however, some environmental activists believe that diesel exhaust from buses and trucks may play a larger role than industries in polluting the air. According to the article, blacks in Oregon were more than four times as likely as whites to live in neighborhoods where air pollution likely posed the greatest health dangers. Ironically, the article concluded that "'gentrification'" was occurring in North Portland, as large numbers of young white families were moving in to take advantage of the lower housing prices.

- **"California Activists Seek Bill Requiring Buffers Near Schools," Risk Policy Report (Dec. 13, 2005).** Environmentalists in California intend to sponsor state legislation in 2006 that would establish buffer zones around schools and child care centers that are near industrial areas handling toxics. The environmentalists believe that hundreds of schools in the State are located in proximity to facilities that handle hazardous materials. According to the article, the planned legislation would likely seek stronger enforcement at the school board level and may involve greater coordination between the parents, school boards, and relevant agencies involved. Specifically, the legislation would likely adopt a "Precautionary Principle," whereby "a lack of full scientific certainty relating to the causes of environmental problems should not be seen as reason enough to prevent taking action toward stopping the perceived cause of the problems."
- **"Utah N-Storage Takes 2 Hits," Deseret Morning News (Salt Lake City, Utah Dec. 9, 2005).** According to the article, Xcel Energy ("Xcel") announced that it would put a hold on its investment into Private Fuel Storage ("PFS"), while Southern Company, another of the six PFS consortium's investors, completely pulled its contributions. Although five investors remain in PFS, which would have used the money to build a high-nuclear waste site in Skull Valley, Utah, Xcel's decision to put a hold on its investments seriously threatens the viability of PFS's proposed nuclear waste site, because Xcel was responsible for about 34 percent of PFS's budget. Utah and its environmentalists oppose having a high-level nuclear waste site in the State and were encouraged by these recent developments. One group, Ohngo Gaudadeh Devia Awareness, expressed its delight with these developments, because the group believed that PFS's decision to place a nuclear waste site in this area constituted

environmental racism. Specifically, the group believed that it was targeted by the large corporation, because the group was “supposed to be in poverty.”

- **“Evacuees of Hurricane Katrina Resettle Along a Racial Divide,” Los Angeles Times (Dec. 12, 2005).** According to the article, the vast majority of households that Hurricane Katrina displaced have chosen to remain close to their former homes. Postal records indicate that the widely predicted vast national exodus has not occurred. However, the article noted that distinctions of class and race existed; specifically, “[p]oor blacks from the city were more likely to land farther away in places much different from home. In many cases, those evacuees stayed wherever government-chartered buses or planes stopped.” In contrast, evacuees from the suburbs, who were mostly white and middle-classed, tended to move to areas that were closer and similar to their neighborhoods, which positioned them to return as soon as circumstances allowed. The article asserted that poor people will have more difficulty returning due to their greater distance from home and lack of financial and social resources, which may result in “radically different demographics” once New Orleans is rebuilt.
- **“N.O. Area Declared Safe to Live In: But Environmentalists Say Threats Ignored,” New Orleans Time Picayune (Dec. 10, 2005).** The article asserted that federal and state officials have declared that the majority of the New Orleans area is safe to live in, work in, or visit. Upon analysis and testing of hundreds of air and water samples, the officials deemed only a few areas as warranting concern for short- or long-term health risks. In most areas, the officials noted that the levels of arsenic, lead and petroleum products typified any urban area. While the toxic contamination that many expected would represent Hurricane Katrina’s lasting legacy appears to be absent, some environmental groups dispute the sufficiency of the testing and contend that “as much as 75 percent of the city still is marred by dangerously high levels of heavy metals, pesticides, and petroleum products.” In making this claim, they cited their own tests and EPA’s data, which was based on a 1-in-10,000 to 1-in-1,000,000 chance of developing cancer or other illness based on a lifetime of exposure to contaminants. The article concluded that the conflicting messages from the governmental officials and environmentalists have left residents in a “gray area.”
- **“Wealthy Blacks Oppose Plans for Their Property,” New York Times (Dec. 10, 2005).** Displaced residents of New Orleans East, a neighborhood with the largest concentration of New Orleans’ black elite, are mobilizing to save their homes from proposed plans to convert that area to marshland. The Urban Land Institute, a planning group that is advising the city, recommended the rebuilding of less damaged

neighborhoods first, which would mean that New Orleans East and other flood zone areas would become the last priority in the City's efforts to rebuild. Residents of New Orleans East are outraged and believe that failure to rebuild their neighborhood would damage the black psyche, since "New Orleans East represents the first time in New Orleans history that the African-American community has seen significant wealth creation that they can hand down to the next generation."

- **"Progress in Ringwood Is Measured in Small Steps," Record (Bergen County, N.J. Dec. 7, 2005) at L11.** The article noted that EPA's newly-appointed Regional Administrator, Alan Steinberg, has taken steps to redesignating the Ringwood Mines site as a Superfund site. Although this move helps to repair the damaged relationship between EPA and the residents in the area, the restoration of the Site to the National Priorities List may take a long time. In addition, the article discussed the gradual process that has occurred in cleaning up the Site, such as the removal of 10,250 tons of contaminated waste. The article concluded by stating that Regional Administrator Steinberg was conducting an internal investigation to determine whether environmental justice issues were involved in EPA's mishandling of the prior cleanup at the Site. Previously, the article noted that EPA had claimed that it was "color-blind" in how it handled the Site.
- **"Environmental Protection Agency: Training Course on Environmental Laws and Alternative Dispute Resolution," Federal Grant Opportunities (Dec. 7, 2005).** This item announced that EPA's Office of Environmental Justice will award a cooperative agreement to support an ongoing training effort to educate community residents on how environmental laws and alternative dispute resolution techniques can be used to promote environmental justice in their communities. The training program, which is designed for non-lawyers, will award one grant of approximately \$1,000,000 and seeks applications by January 23, 2006. Eligible applicants include: state government; private institutions of higher education; non-profits with Section 501(c)(3) status with the Internal Revenue Service; Native American tribal governments (federally recognized); and public and state controlled institutions of higher education.
- **"Meeting Examines Diversity Initiative at UC-Berkeley," University Wire (Dec. 7, 2005).** The University of California at Berkeley ("UC-Berkeley") held a town meeting in which faculty and campus administrators discussed, among other things, possible research proposals for a research initiative that Chancellor Robert Birgeneau launched last May. The Berkeley Diversity Research Initiative seeks to prove the value of diversity in higher education and is currently soliciting proposals for new faculty members that can provide thought-provoking research into diversity issues. The proposed research, which is not limited to the UC-

Berkeley campus and may address statewide or nationwide themes of ethnic and racial disparity, may include such issues as health care, environmental justice, or civil rights. The ultimate goal of the research initiative is to propose educational and governmental policy changes.

- **“Rockland Council to Consider Methadone Clinic Zoning Deal,” Bangor Daily News (ME Dec. 6, 2005) at B2.** The article discussed the Rockland’s City Council’s discussion of a proposed landfill access agreement with FMC Corporation (“FMC”), which is one of the City’s largest employers and taxpayers. The access agreement was drafted as a ten-year contract outlining specific terms for the disposal of seaweed waste. The public, which weighed in on the proposed agreement at the beginning of the Council’s meeting, was divided on the issue. However, one opponent begged for “environmental justice for the citizens of Rockland,” because the odor of the hydrogen sulfide gas emitted by FMC’s byproduct represented a ““potent neurotoxin”” that he claimed caused damage to the brain and central nervous system.
- **“Katrina-New Orleans,” Broadcast News (Dec. 6, 2005).** The article discussed the belief of New Orleans residents that race and class “clearly led to the United States government’s slow response to Hurricane Katrina.” According to the article, one resident told an unspecified House Committee that evacuation measures were not established since ““poor African-Americans . . . would be most affected”” by Hurricane Katrina. In addition, the article noted other testimony that voiced the residents’ concerns, including the fact that some believed that the state and local governments had abandoned them.
- **“Environment, Science, & Space; If You Are Going to Mess With Texas, You Better Watch Your Language,” Houston Chronicle (Dec. 6, 2005) at B2.** According to the article, companies seeking permission to pollute Texas waterways or build a landfill in the State must publish notices in a foreign language if the nearest middle or elementary school teaches English as a second language. The new policy, which the Texas Commission on Environmental Quality approved in early December, seeks to better reach out to environmental justice communities, which tend to receive a greater share of pollution than non-minority communities but with much less participation in environmental proceedings often due to the language barrier. This recent policy expands a prior State program established in 1999 that required companies that sought permission to emit air pollution to notify the public in another language. The article concluded that industry appears to be willing to cooperate with this new policy and pay the cost of posting notifications in an alternative language, which is estimated to be between \$255 and \$1,000.

- **“State: Lead Testing Offer Just for Waterfront South Children,” Courier-Post (Cherry Hill, N.J. Dec. 5, 2005) at 1G.** New Jersey’s Health and Senior Services Commissioner announced that only children who lived in the Waterfront South neighborhood were eligible to receive testing for lead exposure. The Commissioner announced that funding would be provided to older children for lead exposure in light of reports showing the existence of high lead levels in the drinking water supplies in city schools. While the Commissioner did not believe that a public health need existed to warrant the testing, he offered the testing to only Waterfront South residents and not to all children in Camden. The limit on the number of children tested angered the South Camden Citizens in Action and South Jersey Environmental Justice Alliance groups who advocated testing for all children exposed to lead in drinking water in Camden public schools.
- **“Feedback Sought for Delray Bridge Plan: Detroit Community’s Residents Get One-on-One Time with Officials to Discuss U.S.-Canada Span,” Detroit News (Dec. 4, 2005) at 2B.** Government officials continue to hold public sessions with residents of Delray to discuss the details of a third international crossing from Detroit to Canada. The public sessions will take place until March when final proposals will be announced for the site of the crossing, which is expected to boost the capacity and efficiency of the busiest crossing between the United States and Canada. In early 2005, Michigan Governor Jennifer Granholm announced that Delray was the preferred location for the crossing site based on social, economic, engineering, and physical data. However, the residents of Delray oppose the placement of the crossing in their community, which they noted had already been besieged with “industry and neighborhood blight.” In fact, the chairman of the Delray Community Council believes that the proposed selection of Delray as the site of the crossing is an issue of environmental justice, as the selection was made because Delray is impoverished and minority.
- **“2 Companies Fined Over Dust, Permits,” Arizona Republic (Dec. 2, 2005) at 5.** The Maricopa County Air Quality Department recently fined D.L. Withers Construction \$10,000 and Swift Transportation \$8,788 for dust and permit violations. The fines are part of the Air Quality Department’s recent crackdown on companies that fail to comply with its regulations. Since the inception of the crackdown last year, 294 companies have been cited for various air violations. Environmental groups welcome this recent crackdown. One group, Concerned Citizens of South Phoenix, Inc., noted that this crackdown addresses unspecified environmental racism that has occurred in the area.
- **“Mayor Villaraigosa Announces Historic Settlement of Los Angeles International Airport Master Plan Lawsuits,” Market Wire, (Dec. 1,**

2005). On December 1, 2005, Los Angeles Mayor Antonio Villaraigosa announced that a settlement had been reached in the Los Angeles International Master Plan lawsuits. Once the settlement in principle is ratified by numerous outside parties, which is expected within six weeks, an unprecedented era of peace is expected between the airport and the surrounding communities. In fact, the Mayor believed the settlement would enhance and protect the quality of life of the airport's neighbors, while improving airport safety and operations at the international gateway airport. The settlement will allow Los Angeles World Airports ("LAWA") to begin construction in early 2006 on the airport's South Airfield Improvement Project. In addition, the settlement requires, among other things, LAWA to spend \$60 million on various air quality and environmental justice programs over a ten-year period. However, under no circumstances will any of LAWA's obligations require expenditure from the City's general fund or any other City-controlled source of funds.

- **"Environmental Justice Concerns Raised Over Hydrogen Fueling Stations," Inside Fuels and Vehicles (Dec. 1, 2005).** Complaints from environmental justice advocates are increasing that California EPA's ("Cal/EPA") planning of the State's Hydrogen Highway fueling demonstration project fails to address how production and distribution facilities may impact the communities in which they are built. The California Environmental Justice Advisory Committee ("CEJAC"), which is required to comment on the proposal, met with Cal/EPA officials on November 15, 2005 to discuss the hydrogen highway siting criteria that proposed the location of three hydrogen demonstration fueling stations. The article states that CEJAC believes that the siting criteria are too general and fail to include any discussion of hydrogen production facilities. CEJAC also has questioned a proposal in the criteria that established a 50-foot fence line perimeter around each fueling station; CEJAC believes that 50 feet may not be adequate in the event of a catastrophic accident. The article concluded by noting that Cal/EPA will continue to work with CEJAC and develop and incorporate new criteria based on CEJAC's input.
- **"N.J. Officials Promise Action on Pollution," Courier-Post (Cherry Hill, N.J. Nov. 30, 2005) at 1G.** Bradley Campbell, the Commissioner of New Jersey's Department of Environmental Protection, and Fred Jacobs, the Commissioner of New Jersey's Department of Health and Senior Services met with residents from Waterfront South on November 29, 2005 to discuss concerns with pollution in the neighborhood, which residents attributed to various health problems. In noting that health and environmental concerns in the area were neglected for too long a period, Mr. Campbell and Mr. Jacobs attempted to report on a proposed environmental justice action plan that local activists had requested in April 2004. The draft plan, which was released in September, outlined measures

to address air pollution, contaminated soil, and health problems. Although the two officials discussed the plan, they did not provide specific details, which angered some that attended. In response, Mr. Campbell stated that he was unaware of the need to provide specific details at the meeting; however, he asserted that the final draft, which should be prepared in January, would address the residents' concerns.

- **“Raisin City to Get New Water; Grants Allow County to Install System; Hookups Will be Mandatory,” Fresno Bee (Nov. 27, 2005) at B1.** According to the article, Fresno County officials recently received approximately \$800,000 in state and federal grants to install a new public water system in Raisin City to eliminate the town's reliance on private water wells. The town relied on these private wells, because many of the public wells were contaminated by pesticides and fecal matter, which rendered the water undrinkable to residents. Each household will be required to connect to the new system, which would cost between \$1,000 and \$3,000. Failure to connect within 60 days of operation would lead to fines for residents under a mandatory connection ordinance that was recently passed. However, grants will be made available for those residents who may need financial assistance. The Environmental Justice Coalition for Water had previously highlighted Raisin City's poor water quality in its “Thirsty Justice Report.” The report further asserted that state agencies should make more money available to poor communities to fix water systems.
- **“First Law Requiring Multilingual Mercury-in-Fish Warning Passed,” Gourmet Retailer (Nov. 21, 2005).** The San Francisco Board of Supervisors unanimously passed Proposition 65, which is an ordinance that requires grocery stores and restaurants in San Francisco to post mercury in seafood warning signs in English, Spanish, and Chinese. The ordinance, which was the first of its kind in the Nation, is intended to inform the Latino and Chinese communities about mercury in seafood and “addresses the environmental justice concern that only English speakers were able to obtain crucial information about the protection of women and children.” According to the article, the ordinance was necessary in San Francisco, because: (1) about 70 percent of supermarkets in the City failed to properly notify customers about the presence of mercury in fish; and (2) a recent study indicated that 17 percent of Asian women had mercury levels in their blood that exceeded EPA safety limits and were higher than other populations.
- **“Hurricane Katrina: Enviros Urge Agencies to Test for Mold in New Orleans,” Greenwire (Nov. 18, 2005).** According to the Natural Resources Defense Council (“NRDC”), agencies working on environmental and health issues in areas that Hurricane Katrina affected have not adequately monitored for mold. Although a group of experts that

was organized by the Centers for Disease Control, which is the lead federal agency for mold, concluded that mold was not a serious issue, NRDC conducted its own independent testing and sampling at fourteen New Orleans sites in October. Two of the sites were indoors, and the indoor results reflected that mold spores were present at 600 times the levels that would be considered “moldy.” Although the NRDC acknowledged that its sampling was limited, it urged the federal government to conduct a comprehensive survey and undertake regular monitoring for mold. In addition, the NRDC called on the federal government to distribute respirators and provide mold remediation assistance in poor communities.

2. **Recent Litigation.**

- **Fair Hous. in Huntington Comm. v. Town of Huntington, No. 02-CV-2787, 2005 U.S. Dist. LEXIS 31355 (E.D.N.Y. Nov. 29, 2005).** In this case, the court granted plaintiffs’ motion for reconsideration of their claim that the defendants’ engaged in discriminatory conduct relating to their approvals for two residential developments. Under the first cause of action, the plaintiffs asserted a claim under the Fair Housing Act (“FHA”), 42 U.S.C. §§ 3601 *et. seq.*, which, among other things, forbids racial discrimination with respect to the sale or rental of a dwelling. The plaintiffs claimed that defendants’ action caused a disparate impact. In other words, the plaintiffs had to demonstrate that “an outwardly neutral practice actually or predictably has a discriminatory effect; that is, has a significantly adverse or disproportionate impact on minorities, or perpetuates segregation. Plaintiffs are not required to show discriminatory intent.” The lower court had dismissed the plaintiffs’ claim and noted that no constitutional or statutory duty existed to provide low-income minority housing. In granting reconsideration of plaintiffs’ claim, the court was persuaded by the plaintiffs’ contention that the defendants had an “‘extended and well-documented history of concentrating minority families in the least desirable areas of Huntington in violation of the [FHA].’” In addition, the court granted reconsideration of the plaintiffs’ cause of action that alleged that “[d]efendants’ discriminatory practices, motivated by malice and/or callous disregard for the rights of the [p]laintiffs, deprives [p]laintiffs of their rights under the Equal Protection Clause of the United States Constitution with regard to housing in the Town of Huntington.” In doing so, the court determined that the “Town’s alleged history of discrimination in conjunction with its failure to act on the multi-family proposal for over one year, followed by its immediate approval of the studio and one-bedroom proposal, knowing that the former would attract minorities and the latter would not, would permit the conclusion that the [d]efendants were motivated with discriminatory animus.” Accordingly, the court found that the plaintiffs properly alleged an Equal Protection violation.

- **Eagle Envtl. II, L.P. v. Commonwealth of Pennsylvania, 884 A.2d 867 (Pa. 2005).** The Supreme Court of Pennsylvania affirmed a lower court holding that adopted a “Harms/Benefits Test” (“Test”) as part of the permitting process for waste disposal facilities. Specifically, the court found that Pennsylvania’s Environmental Quality Board’s regulations that adopted the Test are constitutional and authorized by the Solid Waste Management Act and the Municipal Waste Management Planning, Recycling, and Waste Reduction Act (collectively the “Acts”). The regulations at issue are almost identical and differ only in the type of facility regulated. They require that a permit application include an environmental impact evaluation of the proposed facility. In addition, the regulations require the Test, in which the “applicant shall demonstrate that the benefits of the project to the public clearly outweigh the known and potential environmental harms. In making this demonstration, the applicant shall consider the harms and mitigation measures . . . [and] shall describe in detail the benefits relied upon. The benefits of the project shall consist of social and economic benefits that remain after taking into consideration the known and potential social and economic harms of the project and shall also consist of the environmental benefits of the project, if any.” In this case, plaintiffs challenged the facial validity of the Test, claiming it to be valid and unconstitutional. Among the key points that the court discussed in making its holding were: the Test “adequately protects” the environment while securing proper waste disposal. The Test does not allow the landfill operator to “‘buy’ the right to damage the environment;” the Acts authorize the Test; the Acts are constitutional and do not alter any fundamental property rights; the Acts do not require private property owners to supply benefits to the public that would not occur as a natural outgrowth of the project; and the Test did not exceed the Commonwealth’s police power.
- **United States v. Arco Terminal Servs. Corp., No. 05-07358, 2005 EPA Consent LEXIS 131 (C.D.Cal. Oct. 12, 2005).** The United States and Arco Terminal Services Corporation (“ATSC”) reached a settlement in this case in which the United States alleged 294 violations of Rule 1142 of the California State Implementation Plan. Specifically, the United States alleged that ATSC loaded vessels with “‘organic liquids,’” as defined by the South Coast Air Quality Management District, illegally 294 times over a seven-year period in violation of Rule 1142. In entering into this Consent Decree (“CD”), ATSC agreed to pay a civil penalty of \$225,000 and implement a Supplemental Environmental Project (“SEP”) that would be completed within 3 years after the entry of the CD. In entering the CD, ATSC denied any material allegations of the complaints, and the CD did not constitute an admission of liability on ATSC’s part. With regard to the SEP, which involved reducing particulate matter and other harmful air pollutants from diesel engine exhaust, two primary purposes will be

served. First, the SEP will reduce the discharge of pollutants into the environment. Second, the SEP will further environmental justice goals “by mitigating damage or reducing risk to minority or low-income populations [that] may have been disproportionately exposed to pollution or environmental risk.”

3. Regulatory/Legislative/Policy.

The following items were most noteworthy:

A. Federal Congressional Bills and Matters.

- **Senate Bill 2047, “Healthy Communities Act of 2005,” introduced on November 17, 2005 by Senator Barack Obama (D-IL). *Status: Referred to Senate Committee on Health, Education, Labor, and Pensions.*** The Bill, which was intended to promote healthy communities, was created to address, in part, the fact that minority Americans are at greater risk of exposure to environmental toxins. Accordingly, the Bill calls on the Secretary of Health and Human Services, in collaboration with EPA’s Administrator, to establish an independent 5-year Advisory Committee on Environmental Health (“Committee”). The Committee will include members with academic training and practical experience in, among other things, environmental justice. The Committee’s duties include the review of environmental health data and studies to, among other things, assess the impact of federal laws, policies, programs, and practices on environmental justice. In addition, the Committee will identify and recommend ways to prevent, or mitigate, harm from federal policies that may adversely affect environmental justice, as well as increase coordination and integration of environmental justice initiatives. The Committee will also seek input from new or existing committees on environmental justice issues, such as the National Environmental Justice Advisory Council.
- ***Miscellaneous House and Senate Congressional Record Mentions of Environmental Justice include:***
 - **“Experiences and Challenges of Hurricane Katrina Evacuees,” Statement of Barbara Arnwine, Executive Director of the Lawyers Committee for Civil Rights, before the House Select Committee on Katrina Response Investigation.** Ms. Arnwine, the Executive Director of the Lawyers Committee for Civil Rights, a nonpartisan, nonprofit civil rights legal organization that advanced racial and gender equality, testified her organization’s belief that “racism and racial insensitivity exacerbated” the destruction that Hurricane Katrina caused. In addition, she testified that the “racial ‘criminal stereotyping’ generated unjustified fear and played a role in FEMA’s slow and inadequate response to the survivors of the

storm.” In support, Ms. Arwine provided examples of “the federal government’s inadequate response to countless people in small communities throughout the Gulf Coast Region where neither FEMA nor the Red Cross . . . had any staff or presence serving these areas in the days and weeks after the storm.” Ms. Arwine voiced her displeasure with FEMA’s efforts and noted that her organization filed a lawsuit against it on November 10, 2005 that challenged the Agency’s failure to provide assistance as required by the Stafford Disaster Relief and Emergency Assistance Act, which guarantees financial assistance to obtain emergency housing. Ms. Arwine concluded by setting forth recommendations to revamp FEMA to ensure that “the dire injustices of the Katrina catastrophe never occur again.” Included among the recommendations are that FEMA: (1) undertake a racial impact study and implement policies to respond to the particularized needs of minority communities during disasters; (2) modify its emergency response plan to respond to the specific needs of minority communities; (3) be able to provide transportation to evacuees during an emergency situation; and (4) establish strong bilingual capabilities for limited English communities to enable easy access to FEMA’s services.

- **Federal Register Notices.**

- **EPA, Dicamba Risk Assessments, Notice of Availability, 70 Fed. Reg. 76,820 (Dec. 28, 2005).** EPA announced the availability of its risk assessments and related documents for the pesticide dicamba. In soliciting public comment on these documents by February 27, 2006, EPA requested that the public suggest risk management ideas or proposals to address the identified risks. EPA is developing a Reregistration Eligibility Decision (“RED”) for dicamba through a modified four-phase public participation process to ensure that all pesticides meet current health and safety standards. To help address potential environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to dicamba, compared to the general population.”
- **EPA, Cypermethrin Risk Assessments, Notice of Availability, and Risk Reduction Options, 70 Fed. Reg. 76,818 (Dec. 28, 2005).** EPA announced the availability of its risk assessments and related documents for the pyrethroid pesticide cypermethrin. In soliciting public comment on these documents by February 27, 2006, EPA requested that the public suggest risk management ideas or proposals to address the identified risks. EPA is developing a RED for cypermethrin through a modified four-phase

public participation process to ensure that all pesticides meet current health and safety standards. To help address potential environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to cypermethrin, compared to the general population.”

- **EPA, National Pollution Prevention and Toxics Advisory Committee (“NPPTAC”); Notice of Public Meeting, 70 Fed. Reg. 76,816 (Dec. 28, 2005).** Pursuant to the Federal Advisory Committee Act (“FACA”), EPA announced that it would convene a 2-day meeting of the NPPTAC on January 25-26, 2005 in Arlington, Virginia. The meeting will provide advice and recommendations to EPA regarding the overall policy and operations of the programs of EPA’s Office of Pollution Prevention and Toxics (“OPPT”). The notice, while directed to the public in general, “may be of particular interest . . . [to] individual groups concerned with environmental justice” as related to OPPT’s programs under the Toxic Substances Control Act (“TSCA”) and the Pollution Prevention Act (“PPA”).

- **DOC, Notice of Intent to Conduct Public Scoping Meetings and Prepare an Environmental Impact Statement on the Activities of the National Marine Mammal Health and Stranding Response Program, 70 Fed. Reg. 76,777 (Dec. 28, 2005).** The Department of Commerce’s (“DOC”) National Marine Fisheries Service (“NMFS”) is preparing an EIS to analyze the environmental impacts of the national administration of the Marine Mammal Health and Stranding Response Program (“MMHSRP”), which, among other things, researches questions related to marine mammal health and responds to stranded marine mammals. Publication of the notice initiated the scoping process that will determine the scope of the environmental issues that the EIS will address. NMFS will prepare an EIS to evaluate the cumulative impacts of activities under the MMHSRP. Specifically, the EIS will identify potentially significant direct, indirect, and cumulative impacts on, among other things, environmental justice. Numerous public scoping meetings on the EIS will be held beginning on January 24, 2006. In addition to comments received at these public scoping meetings, written comments will be accepted until February 28, 2006.

- **DOT, Notice of Intent to Prepare an Environmental Impact Statement; Milwaukee, Racine and Kenosha Counties, WI, and Lake County, IL, 70 Fed. Reg. 76,353 (Dec. 23, 2005).** The United States Department of Transportation’s (“DOT”) Federal Highway Administration (“FHWA”), in cooperation with the Wisconsin Department of Transportation, will prepare an EIS for a

proposed I-94 roadway corridor project in Milwaukee, Racine and Kenosha Counties, Wisconsin that extends into Lake County, Illinois. In preparation of the EIS, public involvement will be solicited and will particularly seek “involvement from minority and low-income populations in the corridor to ensure that the construction of the corridor does not create disproportionately high and adverse environmental and health impacts to these communities.”

— **EPA, Environmental Impact Statements and Regulations; Availability of EPA Comments, 70 Fed. Reg. 73,232 (Dec. 9, 2005).** EPA announced the availability of its comments pursuant to the Environmental Review Process (“ERP”), as required by Section 309 of the Clean Air Act (“CAA”) and Section 102(2)(c) of the National Environmental Policy Act (“NEPA”). With regard to the draft Environmental Impact Statements, EPA raised environmental concerns with the “Pennsylvania High-Speed Maglev Project” due to environmental concerns about air quality, environmental justice, and the disposal of excavated waste material.

— **DOE, Environmental Management Site-Specific Advisory Board, Savannah River, 70 Fed. Reg. 76,271 (Dec. 23, 2005).** The notice announced a meeting of the Environmental Site-Specific Advisory Board (“Board”), Savannah River on January 23-24, 2006 in Hilton Head, South Carolina. The Board was established to make recommendations to the Department of Energy (“DOE”) on matters related to environmental restoration, waste management, and related activities. A session on environmental justice initiatives will be held on January 24, 2006 at 3:30 P.M.

— **EPA, Imazapyr Risk Assessments, Notice of Availability, and Risk Reduction Options, 70 Fed. Reg. 75,799 (Dec. 21, 2005).** EPA announced the availability of its risk assessments and related documents for the imidazolinone pesticide imazapyr. In soliciting public comment on these documents by February 21, 2006, EPA requested that the public suggest risk management ideas or proposals to address the identified risks. EPA is developing a RED for imazapyr through a modified four-phase public participation process to ensure that all pesticides meet current health and safety standards. To help address potential environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to imazapyr, compared to the general population.”

— **DOT, Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (“LEP”) Persons, 70 Fed. Reg. 74,087 (Dec. 14, 2005).** DOT published guidance on services and policies for persons with limited English skills who receive federal

financial assistance from DOT. The guidance, which was effective immediately, was based on Title VI of the Civil Rights Act, which prohibits discrimination based on national origin. The guidance noted how DOT agencies and recipients have implemented numerous language access services, including how the Minnesota DOT “authored a manual detailing its requirements to provide access to all residents of Minnesota under environmental justice standards.” Comments on this guidance are due on January 13, 2006.

— **EPA, Environmental Impact Statements and Regulations; Availability of EPA Comments, 70 Fed. Reg. 73,232 (Dec. 9, 2005).** EPA announced the availability of its comments pursuant to the ERP, as required by CAA § 309 and NEPA § 102(2)(c). With regard to the draft Environmental Impact Statements, EPA raised environmental concerns with the “South Park Bridge Project,” due to water quality, hazardous waste, and environmental justice impacts related to the project.

— **DOT, Preparation of an Environmental Impact Statement for High-Capacity Transit Improvements in the Southern Corridor of Honolulu, HI, 70 Fed. Reg. 72,781 (Dec. 7, 2005).** DOT’s Federal Transit Administration and the City and County of Honolulu (“Honolulu”) plan to prepare an EIS on Honolulu’s proposal to implement transit improvements that potentially include high-capacity transit service in a 25-mile corridor, pursuant to NEPA requirements. Comments on the purpose and needs to be addressed, as well as the alternatives to be considered, are requested by January 9, 2006. According to the notice, numerous lower-income and minority workers live in the corridor outside of the urban core and commute to work by public transit, because they cannot afford the costs of car ownership, operation, and parking. Accordingly, the notice stated that the EIS will consider a wide variety of factors related to the impacts of all reasonable alternatives on, among other things, environmental justice.

— **EPA, Environmental Impact Statements and Regulations; Availability of EPA Comments, 70 Fed. Reg. 72,299 (Dec. 2, 2005).** EPA announced the availability of its comments pursuant to the ERP, as required by CAA § 309 and NEPA § 102(2)(c). With regard to the draft EISs, EPA raised concerns with the “Office of Ocean and Coastal Resource Management Approval of Amendments to the State of Alaska’s Coastal Management Program, Implementation, and Funding” due to the potential negative impacts to biological, cultural, and subsistence resources, as well as subsistence users in coastal Alaska communities, due to the limited range of alternatives analyzed. EPA also raised environmental justice concerns, as well as concerns with the lack

of documentation of effective government to government consultation with the affected Alaska Native tribes.

- **EPA, Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule to Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter, and Ozone NAAQS; Final Rule for Reformulated Gasoline (Part II), 70 Fed. Reg. 71,612 (Nov. 29, 2005).** The final rule addresses, among other things, certain control and planning obligations as they apply to areas designated nonattainment for the 8-hour National Ambient Air Quality Standard (“NAAQS”). In addition, EPA issued this rule to provide certainty to States and Tribes as to how these control and planning obligations apply so that the States may develop timely submissions and attain the NAAQS as expeditiously as possible, but no later than the maximum attainment dates. EPA did not believe that this rule raised any environmental justice concerns; rather, it stated that the rule “helps establish a framework for bringing all areas of the country into attainment with the 8-hour ozone standards, an important environmental justice goal.” EPA further noted that by bringing nonattainment areas into compliance with the 8-hour ozone standard, “the Phase 2 Rule advances an important environmental justice goal and will help make significant progress in providing for the fair treatment of all people with respect to air pollution.”
- **DOC, Fisheries Off West Coast States and in the Western Pacific; Bottomfish Fisheries; Overfishing Determination on Bottomfish Multi-Species Sock Complex; Hawaiian Archipelago, 70 Fed. Reg. 71,258 (Nov. 28, 2005).** Pursuant to NEPA, DOC’s NMFS is preparing a Supplemental EIS that will analyze a range of alternatives to end overfishing in the bottomfish species complex in the Hawaiian Archipelago. Included among the significant issues to be analyzed in the Supplemental EIS will be environmental justice. Comments on the issues, range of alternatives, and impacts that should be analyzed in the Supplemental EIS are due by January 16, 2006.
- **EPA, Acetochlor Risk Assessment, Notice of Availability, 70 Fed. Reg. 70,832 (Nov. 23, 2005).** EPA announced the availability of its human health risk assessment and related documents for the chloroacetanilide pesticide acetochlor. EPA solicits public comment on these documents by January 23, 2006. EPA is developing a tolerance reassessment progress and risk management decision for acetochlor through a modified four-phase public participation process to ensure that all pesticides meet current health and safety standards. To help address potential

environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to acetochlor, compared to the general population.”

- **EPA, Resmethrin Risk Assessments, Notice of Availability, 70 Fed. Reg. 70,829 (Nov. 23, 2005).** EPA announced the availability of its risk assessments and related documents for the synthetic pyrethroid pesticide resmethrin. In soliciting public comment on these documents by January 23, 2006, EPA requested that the public suggest risk management ideas or proposals to address the identified risks. EPA is developing a RED for resmethrin through a modified four-phase public participation process to ensure that all pesticides meet current health and safety standards. To help address potential environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to resmethrin, compared to the general population.”
- **DOE, Notice of Intent to Prepare an Environmental Assessment and To Conduct Public Scoping Meetings and Notice of Floodplain and Wetlands Involvement; Montana Alberta Tie, Ltd., 70 Fed. Reg. 69,962 (Nov. 18, 2005).** DOE announced that it intended to prepare an environmental assessment (“EA”) and conduct public scoping meetings on a Presidential permit to construct a new international transmission line that crosses the United States-Canada international border in Northwest Montana. Specifically, Montana Alberta Tie, Ltd., applied to DOE’s Office of Electricity Delivery and Energy Reliability for a Presidential permit to construct a 230,000 volt, and 203 mile long, electric transmission line across the United States border with Canada. Among the environmental issues that the EA will examine is whether the line would cause a disproportionately high and adverse impact on minority and low-income populations. The pre-approval EA should be issued in spring 2006.
- **EPA, Environmental Impact Statements and Regulations; Availability of EPA Comments, 70 Fed. Reg. 69,966 (Nov. 18, 2005).** EPA announced the availability of its comments pursuant to the ERP, as required by CAA § 309 and NEPA § 102(2)(c). With regard to the final EISs, EPA raised concerns with the “KeySpan Liquefied Natural Gas Facility Upgrade Project, Construction and Operation, and Algonquin Gas Transmission Project, Proposal for Site” due to environmental concerns about the potential need for additional air emission control measures on marine vessels, as well as the need for additional discussions about environmental justice concerns.

B. **State Congressional Bills and Matters.**

- **Massachusetts, Senate Bill 2276, introduced on November 9, 2005, Residue of House Resolution 4479, “Promoting Access to Health Care,” (Senate Bill 2266). *Status: Amended on November 16, 2005 (See Massachusetts, Senate Bill 2282).*** Among other things, the Bill promotes access to health care and provides for a health council to study health care coverage for the uninsured. Section 8 of the Bill amends Chapter 111 of the General Laws by inserting, among other things, subsection (b)(iv), which states that a strategy of providing community-based education and health promotion services shall include “activities to improve the health status, service, care and treatment of such persons, families and communities, including health education and referral services, environmental justice, and other activities.”
- **Pennsylvania, House Resolution 88, introduced on February 14, 2005, by Representative Scott E. Hutchinson (R-Butler/Venango Counties) and Representative Julie Harhart (R-Lehigh/Northampton Counties). *Status: Passed Senate on November 22, 2005.*** The Resolution establishes a task force to study issues concerning sewage management and treatment at publicly owned treatment facilities and systems throughout the Commonwealth and provides for an advisory committee to gather information and make recommendations.